

REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed October 31, 2007 rejected claims 1-21. This is a full and timely response to that outstanding Office Action. Upon entry of the amendments in this response, claims 1-21 are pending. More specifically, claims 1, 8, 13, and 18 are amended, and no new matter is added to the present application by these amendments. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claims 1, 2, 4-7, 13, 16, and 17 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service"). Claims 3, 8-12, 14, 15, and 18-21 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service") and *Soomro, et al.* (U.S. Publication No. 2004/0042435). To the extent that these rejections have not been rendered moot by the amendment of claims, they are respectfully traversed.

II. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiners Taylor and Nguyen spent with Applicant's representative Benjie Balser during a December 4, 2007 telephone discussion regarding the above-identified Office Action. During the interview, various features described in the patent application and recited in

the independent claims, including the persistence factor, and *Mangold* were discussed, and that the outcome of this discussion is addressed herein. Applicants believe that the amendments presented herein are consistent with the suggestions and/or overall discussion with Examiners Taylor and Nguyen. Thus, Applicant respectfully requests that Examiner Taylor carefully consider this amendment and response.

III. Rejections Under 35 U.S.C. §102(b)

A. Claims 1, 2, and 4-7

The Office Action rejects claims 1, 2, and 4-7 under 35 U.S.C. §102(b) as allegedly being anticipated by *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service"). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 1, as amended, recites:

1. A method comprising:
using a shared resource; and
refraining from contending for access to said shared resource for a backoff interval after the last use of said shared resource, wherein said
backoff interval is based on at least one previous interval between two successive accesses to the shared resource.

(Emphasis added).

Applicant respectfully submits that claim 1 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue. See, e.g., *E.I. du Pont de*

Nemours & Co. v. Phillips Petroleum Co., 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that the amendments to claim 1 have rendered the rejection moot. Applicant respectfully submits that independent claim 1, as amended, is allowable for at least the reason that *Mangold* does not disclose, teach, or suggest at least that the **backoff interval is based on at least one previous interval between two successive accesses to the shared resource**. Even if, assuming for the sake of argument, *Mangold* discloses a backoff interval, *Mangold* fails to disclose that the backoff interval is based on at least one previous interval between two successive accesses to the shared resource. Therefore, *Mangold* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 1, as amended, is allowable over the cited references of record, dependent claims 2 and 4-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2 and 4-7 contain all the features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2 and 4-7 are patentable over *Mangold*, the rejection of claims 2 and 4-7 should be withdrawn and the claims allowed.

B. Claims 13, 16, and 17

The Office Action rejects claims 13, 16, and 17 under 35 U.S.C. §102(b) as allegedly being anticipated by *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service"). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 13, as amended, recites:

13. An apparatus comprising:
a transmitter for using a shared resource; and
a processor for refraining from contending for access to said shared resource for
a backoff interval after the last use of said shared resource,
wherein said ***backoff interval is based on at least one previous interval
between two successive accesses to the shared resource***
(Emphasis added).

Applicant respectfully submits that claim 13 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that the amendments to claim 13 have rendered the rejection moot. Applicant respectfully submits that independent claim 13, as amended, is allowable for at least the reason that *Mangold* does not disclose, teach, or suggest at least that a **backoff interval is based on at least one previous interval between two successive accesses to the shared resource**. Even if, assuming for the sake of argument, *Mangold* discloses a backoff interval, *Mangold* fails to disclose that a backoff interval is based on at least one previous interval between two successive accesses to

the shared resource. Therefore, *Mangold* does not anticipate independent claim 13, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 13, as amended, is allowable over the cited references of record, dependent claims 16 and 17 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 16 and 17 contain all the features of independent claim 13.. Therefore, since dependent claims 16 and 17 are patentable over *Mangold*, the rejection of claims 16 and 17 should be withdrawn and the claims allowed.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claim 3

The Office Action rejects claim 3 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service") and *Soomro, et al.* (U.S. Publication No. 2004/0042435). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

For at least the reason that independent claim 1 is allowable over the cited references of record, dependent claim 3 (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 3 contains all the features of independent claim 1. Therefore, the rejection of claim 3 should be withdrawn and the claim allowed.

Additionally, with regard to the rejection of claim 3, *Soomro* does not make up for the deficiencies of *Mangold* noted above. Therefore, claim 3 is considered patentable over any combination of these documents for at least the reason that claim 3 incorporates allowable features of claim 1 as set forth above.

B. Claims 8-12

The Office Action rejects claims 8-12 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service") and *Soomro, et al.* (U.S. Publication No. 2004/0042435). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 8, as amended, recites:

8. A method comprising:
using a shared resource;
refraining from contending for access to said shared resource for a backoff interval after the last use of said shared resource; and
powering down a receiver for at least a portion of said backoff interval, wherein said **backoff interval is based on at least one previous interval between two successive accesses to the shared resource.**
(Emphasis added).

Applicant respectfully submits that claim 8 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that the amendments to claim 8 have rendered the rejection moot. Applicant respectfully submits that independent claim 8 is allowable for at least the reason that the combination of *Mangold* and *Soomro* does not disclose, teach, or suggest at least that a **backoff interval is based on at least one previous interval between two successive accesses to the shared resource**. Even if, assuming for the sake of argument, *Mangold* discloses a backoff interval, *Mangold* fails to disclose that a backoff interval is based on at least one previous interval between two successive accesses to the shared resource. Additionally, assuming for the sake of argument, *Soomro* discloses bandwidth allocation, *Soomro* fails to disclose that a backoff interval is based on at least one previous interval between two successive accesses to the shared resource. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 8, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 8 is allowable over the cited references of record, dependent claims 9-12 (which depend from independent claim 8) are allowable as a matter of law for at least the reason that dependent claims 9-12 contain all the features of independent claim 8. Therefore, the rejection of claims 9-12 should be withdrawn and the claims allowed.

C. Claims 14 and 15

The Office Action rejects claims 14 and 15 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of

Service") and *Soomro, et al.* (U.S. Publication No. 2004/0042435). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

For at least the reason that independent claim 13 is allowable over the cited references of record, dependent claims 14 and 15 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14 and 15 contain all the features of independent claim 13. Therefore, the rejection of claims 14 and 15 should be withdrawn and the claims allowed.

Additionally, with regard to the rejection of claims 14 and 15, *Soomro* does not make up for the deficiencies of *Mangold* noted above. Therefore, claims 14 and 15 are considered patentable over any combination of these documents for at least the reason that claims 14 and 15 incorporate allowable features of claim 13 as set forth above.

D. Claims 18-21

The Office Action rejects claims 18-21 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Mangold, et al.* ("IEEE 802.11e Wireless LAN for Quality of Service") and *Soomro, et al.* (U.S. Publication No. 2004/0042435). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 18, as amended, recites:

18. An apparatus comprising:
a host computer for directing a station to use a shared resource, said station for:

- (1) using said shared resource;
- (2) refraining from contending for access to said shared resource for a backoff interval after the last use of said shared resource; and
- (3) powering down a receiver for at least a portion of said backoff interval, wherein said ***backoff interval is based on at least one previous interval between two successive accesses to the shared resource.***

(Emphasis added).

Applicant respectfully submits that claim 18 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that the amendments to claim 18 have rendered the rejection moot. Applicant respectfully submits that independent claim 18 is allowable for at least the reason that the combination of *Mangold* and *Soomro* does not disclose, teach, or suggest at least that a **backoff interval is based on at least one previous interval between two successive accesses to the shared resource**. Even if, assuming for the sake of argument, *Mangold* discloses a backoff interval, *Mangold* fails to disclose that a backoff interval is based on at least one previous interval between two successive accesses to the shared resource. Additionally, even if, assuming for the sake of argument, *Soomro* discloses bandwidth allocation, *Soomro* fails to disclose that a backoff interval is based on at least one previous interval between two successive accesses to the shared resource. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 18, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 18 is allowable over the cited references of record, dependent claims 19-21 (which depend from independent claim 18) are allowable as a matter of law for at least the reason that dependent claims 19-21 contain all the features of independent claim 18. Therefore, the rejection of claims 19-21 should be withdrawn and the claims allowed.

V. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-21 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 50-0835.

Respectfully submitted,

/BAB/

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